



LAPORTE COUNTY BOARD OF ZONING APPEALS

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ANNEMARIE POLAN
Building Commissioner

January 21, 2014

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, January 21, 2014, at 6:00 p.m. in the Assembly Room of the County Complex.

MEMBERS PRESENT: Glen Minich Wally Pritz
 Candice Nelson Melissa Mullins Mischke
 Dwayne Hogan

OTHERS PRESENT: Annemarie Polan, Recording Secretary, Attorney Doug Biege and
 Darlene Pavey, Secretary

Pledge of Allegiance.

Dwayne Hogan asked for a Motion to approve the meeting minutes from December 17, 2013.

Melissa Mullins Mischke made Motion to approve the meeting minutes of December 17, 2013 as presented. Candice Nelson seconded.

Dwayne Hogan asked if there are any questions, comments, or concerns.

All approved. Motion carried 5-0.

1. **The Petition for Sally Weatherwax (Seller) and Erick Pinette (Buyer)** to have three horses on five (5) acres of land, located at 10251 N.. State Road 39, La Porte, Springfield Twp., zoned B-3. **(This matter is postponed to January 21, 2014 at 6:00 p.m.)**

Attorney Biege said legal is adequate.

Sally Weatherwax, 8721 W. Shebel Road. Michigan City.

1-21-2014 BZA Minutes

Dwayne Hogan asked Ms. Weatherwax what she would like to do this evening.

Sally Weatherwax said that she wants to change the property to Residential on Highway 39, because when she bought the property on 39 she thought it was residential.

Dwayne Hogan asked Ms. Weatherwax why she wanted to change the property.

Sally Weatherwax said that she has three (3) horses, actually having one put down if she does move to that location and only having two (2) horses at the most.

Dwayne Hogan asked Ms. Weatherwax if there is any future plans of expanding.

Ms. Weatherwax stated no.

Attorney Biege asked Ms. Weatherwax if she's asking for the zoning to be changed, are you asking for a variance to keep the horses on the property.

Ms. Weatherwax said variance she guesses.

Attorney Biege said he just wanted to clear that up. Attorney Biege said that this Board cannot change the zoning on the property.

Ms. Weatherwax said that she understands that. Ms. Weatherwax said that is what she wants so she will be able to keep a couple of horses on the property and a few chickens; that's it. Ms. Weatherwax said that there is a huge barn there; there's a great big dog kennel; there's a great big garage and an old farm house.

Melissa Mullins Mischke asked Ms. Weatherwax how many chickens she anticipates.

Ms. Weatherwax said probably none. Ms. Weatherwax said that where she's at right now, she has forty and they're all going bye bye.

Dwayne Hogan asked if there are any other questions, comments, or concerns of the Board

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 1.

Dwayne Hogan said that he will entertain a Motion.

Candice Nelson made a Motion to approve the Petition for Sally Weatherwax (Seller)

Ms. Weatherwax said that Erick Pinetee (buyer) is no longer in affect.

Candice Nelson asked if she's just making a Motion for Sally Weatherwax.

Annemarie Polan, Building Commissioner, said that it's just for Sally Weatherwax. Candice Nelson said for Sally Weatherwax to have three (3) horses on five (5) acres of land located at 10251 N. State Road 39, La Porte, Springfield Twp., zoned B-3.

Dwayne Hogan asked if he had a second.

Melissa Mullins Mischke seconded.

Dwayne Hogan asked if there are any questions, comments, concerns, or clarifications.

Dwayne Hogan asked Ms. Weatherwax if Erick is part of this Motion.

Sally Weatherwax stated no. Ms. Weatherwax said that they were trying to buy the property and they couldn't get a loan.

Dwayne Hogan asked if there are any other questions, or comments.

Glen Minich said that the only comment that he wants to make is if this variance is given to you, it wouldn't be given to the next owner; apparently the property has been for sale.

Glen Minich said that is the only point that he wants to make is that you're getting the variance and if you decide to sell and that buyer wants to have horses they actually have to come here and get the same thing. Mr. Minich said that it goes with the owner, not with the property.

Dwayne Hogan asked if there is anything else.

All approved. Motion carried 5-0.

- 2. The Petition for Kingsbury Elevator, Inc. and Ed Lindborg** for continued placement of a mobile home for security purposes. Previously a Variance was granted on August 17, 2013 for two (2) years, with the stipulation that the mobile home is not to be rented. This property is located at Central Road & 4th Road, Kingsbury Industrial Park, Washington Twp., zoned M2.

Attorney Biege said that legal work is adequate.

Attorney Biege said that since you granted this variance last time and the time in between, the County passed the Kingsbury Overlay District. Attorney Biege said that in the Kingsbury Overlay District a mobile home is allowed so long as it's used as a guard shack.

Attorney Biege said that he talked to the Building Commissioner on this and his thought is he's not sure if this is necessary, however the Building Commissioner's Office has records and their records shows that their variance is up for renewal, but he doesn't think renewal is necessary and the minutes should reflect that he's in compliance and he no longer needs a variance.

Dwayne Hogan asked Annemarie Polan, Building Commissioner, if there is any question or problem with that.

Annemarie Polan, Building Commissioner, stated no.

Mr. Lindborg asked if he had to have a variance.

Glen Minich told Mr. Lindborg not anymore.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 2.

Attorney Biege told Mr. Lindborg that he didn't waste his trip because we had to make that the record and the BZA was correct showing that you don't need it.

Mr. Lindborg asked if he needs to come back.

Glen Minich asked if we need to make a Motion, or just use this as public comment stating that this is now ----

Attorney Biege said that the minutes should reflect that now we have a record and that should be adequate. Attorney Biege said that technically there is no action to take by the Board.

Glen Minich said that technically what we're saying is that in an industrial area a residence that is used for a guard shack.

Attorney Biege said in the Kingsbury Overlay District, which is contained within a residential area – an industrial area, a mobile home used as a guard shack is allowed.

Mr. Lindborg asked if a guard shack and security is the same thing.

Attorney Biege stated yes.

- 3. The Petition for Nicholas & Katherine Johnston** to operate a dog daycare and possible vacation time (Boarding max 12 dogs) with a maximum sign of 3'x5' unlighted. This property is located at 315 W. Johnson Road, La Porte, Center Twp., zoned R1B on .81 acres.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Nicholas Johnston, 315 W. Johnson Road, La Porte, Indiana.

Dwayne Hogan asked Mr. Johnston what he would like to do this evening.

Nicholas Johnston said open a doggy day care. Mr. Johnston said essentially just board dogs during the day for people who are at work, or gone for the day and occasionally when those people go on vacation to be able to keep their dog overnight. Mr. Johnston said that there is a thirty-five -- forty pole barn in the back of the lot by the garage that right now has heating and air in it and it's just for storage.

Dwayne Hogan asked if it's the garage that's in this picture.

Nicholas Johnston said that it's behind the garage -- you can kind of see it to the left of it.

Wally Pritz asked if it is the white building.

Nicholas Johnston said yes -- the one way in the back -- the back corner. Mr. Johnston said that there is a walkway all the way to it and gates to it.

Dwayne Hogan asked Mr. Johnston asked how big it is.

Nicholas Johnston said it's 30x40.

Dwayne Hogan asked if it is heated.

Mr. Johnston said heated, air, water and a bathroom.

Glen Minich asked if it's insulated.

Mr. Johnston said that it is very well insulated.

Dwayne Hogan asked Mr. Johnston what is currently in there now.

Mr. Johnston said garbage, man cave, cable tv and a boat.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 3, for or against.

Dwayne Hogan asked if there are any questions, comments, or concerns from the Board.

Candice Wallace asked Mr. Johnston if this is ran twenty-four hours, or is it going to be seasonable. Candice asked Mr. Johnston how he wants to run this.

Mr. Johnston said that it's going to be from essentially 7:00 a.m. to 7:00 p.m. and hours will verify depending on people coming and going.

Dwayne Hogan said if it's going to be vacations it will be twenty-four seven.

Mr. Johnston said he would keep it twenty four seven. Mr. Johnston said that overnight would only be a week at a time. Mr. Johnston said that other than that it will just be a day thing. Mr. Johnston said that he won't have any retail; he will strictly just do doggy day care.

REMONSTRATOR:

1. Jim Magnuson said that he owns homes at 307 and 309 Johnson Road. Mr. Magnuson said that he guesses he would just like a little more information. Mr. Magnuson said that he's concerned if the dogs are always going to be in the building, or will there be kennels outside.

Mr. Johnston said that there will not be kennels outside.

Melissa Mullins Mischke asked Mr. Magnuson to address the Board and when you're finished we will have him come back up and address your concerns.

Mr. Magnuson said that if there are twelve dogs he guesses he's concerned if they are all inside, or whether they would be outside and kennels. Mr. Magnuson said being a residential area it would be an issue with twelve dogs outside at one time all barking. Mr. Magnuson said that he thinks that it's a wonderful idea and he's all for it, but he's concerned because it's a residential area and it could affect twelve dogs barking. Mr. Magnuson said that if it's insulated and it's inside that would be a different story.

Dwayne Hogan thanked Mr. Magnuson.

Nicholas Johnston said that they're going to be putting up a privacy fence all around their house, so that will keep most of their sound and everything inside of the yard. Mr. Johnston said that the dogs would come out and generally for most winter time, but most of the time they will come out a couple at a time, go to the bathroom, and then come back into their kennel.

Mr. Johnston said that they're not going to have free reign over the yard like his dogs do now. Mr. Johnston said that it will be much quieter then it's now because they will have a whole privacy fence six foot all around the whole back yard.

Dwayne Hogan asked Mr. Johnston if he intends to have them outside in the summer time running around and barking where they can make some noise and disturbing.

Mr. Johnston stated no. Mr. Johnston said that even now when his dogs bark he stops them. Mr. Johnston said that if they bark for a couple of minutes he puts a stop to that pretty quick.

Dwayne Hogan told Mr. Johnston that he knows he's talking about twelve dogs, but he wants to know a realistic number of dogs that you will house at one time.

Mr. Johnston said that max will be twelve dogs. Mr. Johnston said that he will probably start out this year with maybe only three or four.

Melissa Mullins Mischke asked Annemarie Polan, Building Commissioner if she has any knowledge if Mr. Johnston would need a kennel license from the County with that number of dogs.

Annemarie Polan, Building Commissioner, said that she will have to check on that and let you know.

Mr. Johnston said that he thinks that he read something that it was fifteen or less was considered a small kennel and fifteen or more is considered a large kennel.

Melissa Mullins Mischke said that she wasn't sure of the number and she thought twelve was kind of close.

Mr. Johnston said that he's pretty sure that's fifteen, but he doesn't know how the kennel license works. Mr. Johnston said that he is a trained vet tech from Brown Mackie and he graduated in 2012. Mr. Johnston said that he's taking care of dogs that tear apart their owner's yard – or owner's houses and that's why he's there. Mr. Johnston said that he's training these dogs to be the better – to be able to stay at home twelve hours a day and not use the bathroom in the house and stuff.

Candice Nelson asked Mr. Johnston if it's a dog day care, or is it an obedience school.

Mr. Johnston said that it's just a dog day care, but he will help these dogs in any way he can. Mr. Johnston said that is why they pay him over sending them to a vet's office where they can sit there for eight hours and day and go out three times a day – that's it.

Candice Nelson asked Mr. Johnston if the dogs will be running free inside that barn.

Mr. Johnston said that it depends on if they are friendly dogs or not.

Candice Nelson said that she could understand that.

Dwayne Hogan asked Mr. Magnuson if that answers his questions.

Mr. Magnuson said he thinks so, yes.

Dwayne Hogan asked if there are any other questions or concerns.

Mr. Magnuson asked if there would be a kennel outside.

Mr. Johnston stated no.

Dwayne Hogan asked if there were any other remonstrators tonight for or against Petition No. 3.

Dwayne Hogan asked if there are any other questions, comments, or concerns of the Board.

Melissa Mullins Mischke said that she's certainly all for a small business in our area. Melissa said that she is a little concerned about the residential area, but having said that she will make a Motion for Nicholas and Katherine Johnston to operate a dog day care and possible vacation time boarding a maximum of twelve dogs with a maximum sign of 3 feet by five feet unlighted, with operating hours of Monday through Saturday 7:00 a.m. to 7:00 p.m. for the property located at 315 W. Johnson Road, La Porte, Center Twp., zoned R-1 B be granted for a period of one (1) year.

Dwayne Hogan asked if he had a second.

Candice Nelson seconded.

Dwayne Hogan said for clarification, what do we do about the vacation dogs and twenty-four seven.

Melissa Mullins Mischke said that she thinks that she can clarify this. Melissa said that in her mind he's not having the owner come and go –

Attorney Biege said that he will direct it as customers operating hours.

Dwayne Hogan asked if there are any other questions, comments, or concerns.

All approved. Motion carried 5-0.

Dwayne Hogan told Mr. Johnston that he has one year. Dwayne told Mr. Johnston that if there are no problems or complaints, then we will go ahead renew for business. Mr. Hogan said that this is a one (1) year trial.

Dwayne Hogan asked if there is any other business before the BZA.

Attorney Biege for the Plan Commission well over a year, the lawyers for both City of La Porte and Michigan City and himself have been working on some revisions for zoning code and they finally got to the end of their long journey. Attorney Biege said that if the individual BZA members have noticed, or perceived things should be tweaked or fixed, to let him know because they are about to bring it to finalization and present it to the Plan Commission for review.

Dwayne Hogan asked if that would be presented next Tuesday.

Attorney Biege said that it will be for next month, but they're going to roll it through the final version in about two weeks and he didn't know if any BZA members would want to cross tweak things in the code that they would like to see remedied --- this is more of a repair operation.

Glen Minich said that we've talked about how we think that putting a sign out – BZA signs would be a good idea and I think earlier you said that we couldn't. Glen said this may be a good time to talk about this. Glen said that he knows at one time it was stated that you said we couldn't do anything above and beyond what the state regulations talked about, but all we're talking about is one more way of advertising this site actually – it's not like we're asking for one more thing. Glen said that he thinks that it would be a really good idea.

Melissa Mullins Mischke said that she agrees. Melissa said that not only would it help the Board members who are unfamiliar with that part of the county when we go site visit, but also the neighbors in the area realize – she thinks that there are neighbors that don't live adjacent that are still interested in what's going with the granting of a variance and if they saw the sign they might be more inclined to come to the meetings.

Attorney Biege said that he can certainly do some research and see if he can find a problem with it, and bring some suggested language to the BZA next month.

Wally Pritz asked if Long Beach and Pottawatomie Park will all be under this program.

Attorney Biege said that this will be all the unincorporated areas. Attorney Biege said that he thinks that Long Beach has their own zoning code. Attorney Biege said that they can choose to adopt this version in they wish. Attorney Biege said that the main thrust or purpose of having the consolidated zoning code for the County, City of La Porte and Michigan City is partially for economic development so we have consistent zoning rules. Attorney Biege said that they would certainly be welcome to adopt what we have.

Wally Pritz said that they have a coach house on one of the remodeling jobs that they're doing -- actually it's a garage, but they want to make a coach house for the mother-in-law so she can live there. Wally said in other words, put a one bedroom apartment above the garage and they're having a problem in Long Beach and that's why he asked the question.

Attorney Biege said that he thinks that would be subject to Long Beach rules and whatever zoning code they might have in place if it's within the City limits.

Annemarie Polan, Building Commissioner, asked Attorney Biege if he's just talking about repairs. Annemarie said that we've talked about having to come before the Board for a variance if you only have one accessory building in residential zoning and we were going --- is that something we can ---

Attorney Biege thanked Annemarie and he said that he's not sure they addressed that.

Annemarie Polan, Building Commissioner, said that it would be in the plumbing too – those two things. Annemarie said the plumbing for the horse barns. Annemarie said that if there is any plumbing in a building you have to come before the Board.

Glen Minich said any accessory building. Glen said that we don't want that because we want people to be able to put up a barn for a horse that has water.

Attorney Biege said he has it.

Wally Pritz said that a person can put a one bedroom apartment complex above their garage.

Annemarie Polan, Building Commissioner, told Wally that if there's a dwelling on the property and an accessory building, the people that own the home can convert that accessory building provided it's not more than thirty-three (33%) percent of the main building. Annemarie said that a lot of times it ends up to be around eight hundred (800) square feet in that vicinity.

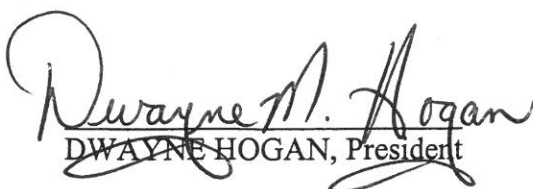
Dwayne Hogan asked if there are any other questions or concerns for other business. There being no further business before the BZA, meeting adjourned at 7:45 p.m.

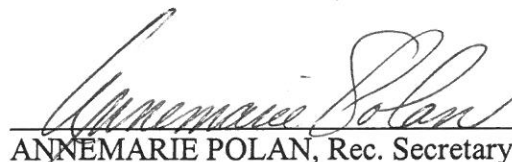
Dwayne Hogan said that he will entertain a Motion to adjourn.

Wally Pritz made a Motion to adjourn. Candice Nelson seconded.

All approved. Motion carried 5-0.

There being no further business, meeting adjourned at 6:25 p.m.


DWAYNE HOGAN, President


ANNEMARIE POLAN, Rec. Secretary